



marijuana involved exceeded two pounds. Bueras was arrested six years later. The court subsequently conducted a bench trial on the state's allegation that Bueras previously had been convicted of a felony. Finding the state proved that allegation, the trial court sentenced Bueras to concurrent, enhanced, mitigated prison terms, the longest of which was six years. On appeal, Bueras contends the trial court erred when it denied his request to preclude the state from introducing witnesses and exhibits at the trial on his prior felony conviction on the ground that the state had violated the disclosure deadline the court had imposed. We affirm.

¶2 We review for an abuse of discretion a trial court's determination of the appropriate sanction for a disclosure violation by the state. *See State v. Armstrong*, 208 Ariz. 345, ¶ 40, 93 P.3d 1061, 1069-70 (2004). After Bueras was apprehended, the court set the sentencing for September 6, 2006, and imposed a disclosure deadline of August 29. The parties stipulated that Bueras's "pen pack" and another document that related to his prior felony conviction, both of which had been marked as exhibits for the July 2000 trial, had to be released to the state. The state supplemented its witness list on September 1 and, on September 5, provided Bueras with the fingerprint report prepared after Bueras provided his fingerprints pursuant to the court's order in August. On September 6, Bueras moved to preclude the state from introducing any evidence at the prior conviction trial.

¶3 The record reflects the trial court considered the circumstances that resulted in the late disclosure, including the state's explanations for the delay and defense counsel's version of what had taken place. The state pointed out that Bueras had absconded for six years, and his fingerprints could not be obtained until he was arrested. The state also

explained there had been some delay in getting the documents relating to the prior conviction because defense counsel could not be reached to sign a stipulation. And, the state further explained, once the documents were obtained, they were forwarded to “DPS [Department of Public Safety] for the examination” of the fingerprints attached to the prior-conviction documents and comparison to those obtained from Bueras, but “the problem with the DPS exam is that, they only had one examiner on last week, and then this examiner . . . was only on yesterday.” The court continued the trial on the allegation of a prior conviction and Bueras’s sentencing for two weeks to September 21 in order to give defense counsel the opportunity to review the documents and question the witnesses.

¶4 As the state points out, preclusion of evidence is one of the harsher sanctions for untimely disclosure of evidence, and it should be imposed as a “sanction of last resort.” *State v. Moody*, 208 Ariz. 424, ¶ 114, 94 P.3d 1119, 1149 (2004), *quoting State v. Talmadge*, 196 Ariz. 436, ¶ 17, 999 P.2d 192, 196 (2000). The trial court found in this case that preclusion was “[t]oo severe a sanction,” adding that, “under these circumstances . . .[,] it’s unjustified.” Bueras has not persuaded us the court abused its discretion by so concluding.

¶5 The convictions and the sentences imposed are affirmed.

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PETER J. ECKERSTROM, Presiding Judge

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PHILIP G. ESPINOSA, Judge

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GARYE L. VÁSQUEZ, Judge